8. OPERATIONS OF SALES TAX

1. Introduction

It is obvious that the structure of the tax and the law embodying it must be administrable without undue difficulty. A 'theoretically' perfect structure, but which is too complicated, would in practice prove to be a faulty structure. Similarly, if the law is not clear, simple and unambiguous, a heavy load would be thrown on the administration. In putting forward suggestions for changes in the structure, we have kept these considerations in view. But it must be emphasised at the same time that inefficient or tardy administration would not only defeat the intent of law but also lead to loss of revenue and quite possibly harassment to the taxpayers. Hence the administrative aspect is a structural one. In this chapter, we shall deal with all the important aspects of administration such as registration, submission of return, payment of duty and assessment. In doing so, we shall, as the terms of reference require us, also "examine the implementation of the sales tax law with particular reference to assessment and introduction of summary assessments as envisaged in Section 23(1) of the Delhi Sales Tax."

2. Registration

The registration of dealers is a pre-requisite for satisfactory enforcement of the sales tax. It enables the administration to divide dealers and businesses into those who are liable to submit returns and pay tax if any amount is due and others who are not liable. In this way the number of dealers to be kept under surveillance gets limited. Apart from this, under the last-point tax, the system of registration creates a ring—all sales taking place within the ring are exempted from tax and sales taking place across the ring, that is, sales by registered dealers to un-registered entities are made to suffer tax. Under the first-point tax, although the tax is payable only by manufacturers and importers (being the first sellers), registration of

resellers who have a turnover above the exemption level helps the administration to ensure that any first sales by these re-sellers will not escape tax. Registration being so important for the proper enforcement of tax, an obligation is cast on dealers fulfilling certain conditions to keep themselves registered. But registration is both an obligation and privilege, because the registered dealer, whose affairs are kept under check by the tax department, is allowed a number of privileges. Thus, while the dealers (fulfilling the specified conditions) find themselves under a legal obligation to obtain registration, the tax department acts somewhat cautiously in this matter because it is anxious to see that the privileges flowing from registration are not misused. Those two aspects of the problem need to be reconciled judiciously in order to avoid conflict and harassment.

a. Compulsory registration

Registration is compulsory (under section 14) for every dealer (*a*) who at the commencement of the Act is registered, or (*b*) whose turnover exceeds the taxable quantum during the year immediately preceding the commencement of the Act or during the preceding year—the "taxable quantum" (or the exemption level in terms of gross turnover) is nil in relation to an importer, Rs 30,000 in relation to a manufacturer and Rs 1,00,000 in relation to other dealers—or (*c*) who is registered or liable to pay tax under the CST Act 1956. A dealer who is liable to pay tax under DST cannot carry on business unless he has been registered and is in possession of a certificate of registration. Registration is not obligatory if a dealer is dealing exclusively in tax-free goods listed in Schedule III. If a person commences business and also wishes to be registered, he should apply at the earliest, after incurring liability under section 3, either by effecting an inter-State sale or by making an import and then selling the imported item, thus making himself compulsorily registrable.

b. Voluntary registration

A dealer can also register himself voluntarily (under section 15) if his turnover during a year exceeds Rs 25,000. He is liable to pay tax under the Act so long as his registration

remains in force.

c. Provisional registration

A dealer who intends to establish a business for the purpose of manufacturing goods of a value exceeding Rs 30,000 per year can get himself registered provisionally (under section 16). He will then be liable to pay tax under the Act. If he fails to establish the business within the period specified in the provisional certificate of registration without sufficient cause, he becomes liable to pay penalty equal to one and a half times the amount of tax on his purchases which would have been payable had he not been so registered under section 16.

d. Special registration

A dealer whose registration certificate has been cancelled—due to default in payment of tax, wilful withholding of information, failure to furnish security, conviction for offence, etc., under the Act—can obtain a special registration certificate by registering himself under section 17. Special registration is meant for a defaulting dealer to enable him to continue his business.

It may be noted in this context that there is difference between a dealer holding a special registration certificate and a dealer holding one of the other registration certificates. Thus, a dealer holding the former will not be entitled to purchase tax-free any goods on the strength of the certificate of registration.

e. Procedure of registration

Getting a registration certificate is quite a time-consuming process under the Act. The procedure is as follows: First, a dealer has to present an application, after affixing thereon a court fee stamp of Rs 25 before the appropriate authority (or send it to him by registered post). The application must be in Form ST-5, if the business is carried on at more than one place in Delhi. While filing an application form the dealer must specify the goods in which he wants to deal and the purposes to which he will put them. Second, after getting the application for registration, the assessing authority makes necessary enquiries regarding the particulars given in the application form. If

the authority finds from the enquiry that the information given by the person is not correct then an opportunity will be given to him to explain and the necessary security will be demanded from him. Third, while issuing the certificate of registration, the authority will specify the goods or class of goods for the purpose of:

(*a*) use by him as raw material in the manufacture of any goods, other than goods declared tax-free or newspapers, for sale by him inside Delhi or for sale by him in the course of inter-State trade or commerce or in the course of export outside India, or

(*b*) resale by him in Delhi or in the course of inter-State trade or commerce or in the course of export outside India in the manner prescribed under section 4(2) (*a*) (*v*), or

(*c*) Making of goods of the class or classes specified in the certificate of registration except tax-free goods.

Granting of registration certificate can only be delayed upto three months generally, but in some special cases it could be delayed for more than three months (Rule 48). In order to safeguard the interests of new dealers seeking registration, a provision has been introduced to the effect that if the grant of registration is delayed for no fault of the dealer and he has had to pay sales tax on his purchases because of such delay, such tax paid by him will be refunded to him or adjusted against his tax liability. In spite of this provision any undue delay in getting registration implies hardship to the dealer.

As stated earlier, registration is both an obligation and a privilege. In order to prevent the use of the privilege of registration as means of tax evasion, tax administration needs to check the bona fides of the applicants and to exercise caution in giving any dealer the registration certificate. Nevertheless, keeping the possible hardship to the dealers in view, every effort has to be made to expedite the grant of registration. While enquiries have certainly to be made, it is difficult to understand why a period of three months is needed for the completion of such enquiries. Many of the representatives of the traders, associations and the chambers of commerce and

industry, who gave evidence before us or wrote to us, have expressed their dissatisfaction about the whole matter of registration and in particular drawn attention to the distress caused by the delay in getting registration. In their memoranda they have pointed out that in most cases getting registration takes the maximum time of three months allowed.

According to the present rules, the dealer is required to give a list of goods in which he will be dealing and of goods which he would be purchasing for use in manufacture, etc. These are then endorsed on the registration certificate. The dealer is expected to confine his transactions to the goods mentioned in the certificate of registration. While it is legitimate to require each dealer to fulfil certain conditions while getting himself registered, the tax law goes beyond this legitimate requirement, if it tries to restrict the freedom of individuals to deal in whatever goods they find profitable to buy and sell. It is not always possible for a manufacture or a dealer to accept what goods he would deal in or what particular inputs he would buy. Hence, it is harmful to the growth of trade and industry to let the requirements of registration interfere in the economic freedom of individuals.

Apart from the two problems mentioned above, attention may be drawn to another requirement which seems both unnecessary and open to abuse. We refer to the requirement under the DST rules that a dealer getting registration under CST should also get registered under DST. This link between the two Acts for the purpose of registration, makes it possible for many smaller dealers, having a turnover far below the taxable quantum laid down for resellers under DST, to get themselves registered.

3. Recommendations

Having considered the question of delay in registration in the light of our discussions with the Commissioner and his staff and with the representatives of trade and industry and keeping in mind the practices prevailing in different States, we have come to the conclusion that the maximum period for the granting of a registration certificate should be reduced to 45 days; but in exceptional cases the period could be extended to three months by an officer in the rank of an Assistant Commis-

sioner, on the merits of the case. As we shall indicate later, some of t e other recommendations we are making would cut down the number of applications for registration and also keep out a very large number of smaller dealers. Hence there would be a larger proportion of bona fide applicants and it should be possible to dispose of applications within 45 days.

Under the CST rules, by effecting a single inter-State sale, a dealer becomes liable to get himself registered under CST. To require such a dealer to get himself compulsorily registered under DST is, on the one hand, to impose unnecessary hardship on someone who may not wish to engage in internal sales and, on the other hand, to open up a loophole for obtaining bogus registrations under the local sales tax. In any case, there seems to be no logic behind such a linkage and it nullifies the reasoning underlying the fixing of a fairly large exemption level for resellers. It is recommended that the linkage be abolished forthwith. Of course, so long as the taxable quantum is nil for importers even if a dealer imports only one unit of a commodity and sells it internally, he would become liable to registration under DST. But we are recommending elsewhere that the taxable quantum for importers should be fixed at Rs 50,000.

We find that the provision for voluntary registration has been used widely for the creation of bogus registered dealers in order to evade taxes. If it is provided that anyone, who is registered under the CST and buys goods internally for purposes of exporting to other States, could buy them without payment of tax, or having paid tax could set it off against the C·T payable by him (and get a refund if there is any excess), then the category of voluntary registration may be abolished.

In our view it will be sufficient if the registration certificate mentions the broad nature of the business of the dealer concerned together with the mention of the broad categories of goods in which the dealer is intending to deal or which he intends to manufacture. It should not be required that the list of inputs to be bought should also be mentioned. Moreover, the dealer should be allowed to deal in or manufacture goods other than those covered by his registration certificate without any prior amendment of the registration certificate. He should only be required to inform the assessing authority that he was changihg or enlarging his business in such-and-such a manner

listing the new items. The registration certificate could be amended later.

4. Submission of Returns and Payment of Tax

Registered dealers are generally required to submit quarterly returns. The quarterly return asks for many details including the details of deductions for arriving at net turnover, the details of deductions, exemptions, etc., claimed before arriving at the taxable turnover and calculations of tax payable.

Under Sub-rule 2 of Rule 21 of the Delhi Sales Tax Rules, 1975, the appropriate assessing authority may, for reasons to be recorded in writing, fix 'the monthly return period' for a registered dealer. Then the dealer must file monthly returns in the quarterly return form. An order passed under this Sub-rule will remain in force for not less than one year and would continue until the assessing authority orders that from then on the dealer may file quarterly returns. This Sub-rule has apparently been introduced to enable the assessing authorities to safeguard revenues when they have some well-founded suspicion that the dealer concerned might not have fulfilled his legal obligations. It was understood, however, that only a very limited number of dealers have been in practice asked to submit monthly returns.

Every dealer whose turnover exceeded Rs 10 lakh in the previous year and the tax payable according to the return was not less than Rs 50,000 and any other dealer who may be so required by the appropriate assessing authority, for reasons to be recorded in writing, has to make monthly payments of tax by the end of the month following the month to which the payment relates. Such a dealer has to furnish the three receipted challans in respect of payments made in a quarter along with his quarterly return.

Thus, under the present rules, while the dealers generally have to submit quarterly returns and make quarterly payments, the larger dealers have to make monthly payments but submit quarterly returns. Apart from these rules generally applicable, the assessing authority may direct some dealers to submit monthly returns and/or make monthly payments. The form of the quarterly return can be seen from Form ST-11 under DST. It will be noticed that the form is quite detailed. Indeed, given the present procedure of adding up the four quarterly returns

for the purpose of making the annual assessment, the form has to be detailed. The quarterly return is rarely scrutinised when it is received. Most of the details contained in the quarterly return are to be used only at the time of assessment, which normally takes place three or four years after the year to which the transactions relate. As assessment is made for the year as a whole and not quarter by quarter, no important purpose seems to be served by the requirement to produce for every quarter all the details contained in Form ST-11. It is recommended that all dealers be required to submit an annual return which should contain all the details which are now given in the quarterly return; the larger dealers should be required in addition to provide information of the commodity-wise composition of the tax collected by them. The form for filling in commoditywise information is reproduced in Annexure X.4. The annual return will have to be submitted in duplicate.

It is the annual return which should form the main basis of the information system to be built up by the department. Having four quarterly returns with no annual return has invariably led to many serious problems in computerising the sales tax data. Besides, no serious purpose is served by collecting detailed information quarter by quarter. It is recommended that the quarterly return be a simple and short one giving mainly the amounts of gross turnover, net turnover, taxable turnover and the calculations of the tax payable. A model tax-cum-challan form for quarterly submission is reproduced in Annexure X.3.

While the dates for submission of quarterly return may remain as they are now, it may be stipulated that the annual return should be submitted within three months of the end of the financial year to which it relates.

It may be noted that the quarterly return-cum-challan form that has been devised contains only three portions of the challan. At present the prescribed challan consists of four parts. While the assessee files part C with the return and retains part D, the bank where the payment is made retains part A and forwards part B to the department. A central office in the department distributes the challan portions received from the banks among the concerned assessing authorities. When received, the bank challan portion is supposed to be

checked against the challan portion filed by the assessee. The assessees who appeared before us have been unanimous in complaining that the department is not willing to accept the submission, along with the return, of portion C of the challan as proof of payment but considers the assessee to have discharged his liabilities only when it (the department) receives portion B from the bank. The department, on the other hand, has maintained that some unscrupulous dealers have gone to the extent of altering their portions of the challan after getting it from the bank. It is obviously not desirable to impose hardship on the large majority of taxpayers because of the culpability of a few unscrupulous dealers. Also, since the amounts are entered in both figures and words, alteration is not easy. Collusion with some bank officials is of course possible but the remedy in our opinion lies in instituting a sample check.

In the return-cum-challan form devised by us (Annexure X.3) it will be noted there are only three portions of the challan: one portion will be submitted to the department with the return, another portion will be retained by the assessee and the third portion will be retained by the bank. The bank would be sending a scroll of payments against which a sample of 2,000 or 3,000 challan portions filed by the assessees in every quarter may be checked. The sample should be chosen scientifically by the computer centre on the basis of random sampling. The rules should provide that when any dealer is found to be indulging in malpractice in this regard a severe penalty would be imposed on him.

5. Assessment

Assessment of returns is the next important aspect of tax administration. It is here that the assessee comes into direct contact with the administration. It is assessment which ultimately ensures that actual payment has been in accordance with liability. Here again there is need to reconcile the objective of minimising harassment to the dealers with that of safeguarding revenue.

There are two possible approaches to assessment. One is that all or almost all returns should be scrutinised, checked and verified against the relevant accounts/vouchers of the dealers and an assessment order should be passed in each case indicat-

ing the additional demand for tax evasion; the other is that the tax should be paid largely on the basis of self-assessment and that only the large cases and a sample of other cases (or only a sample of large and small cases) will be taken up for reassessment by the department. With the increasing coverage of taxation represented for example by mass personal income-tax and the value-added tax and the ever-increasing number of taxpayers, more and more countries have been switching over from the first to the second approach to assessment in the collection of revenue. Wherever value-added tax has been adopted, whether in Europe or Latin America, the system is made to run largely on self-assessment with audit or departmental assessment confined to a sample of cases or all large cases and a sample of other cases. In this country, by and large, the first approach, namely, assessment by the department of almost all the cases has been in vogue. Tax officials have generally been reluctant to introduce self-assessment on any significant scale.

Delhi is no exception to this general practice. The general practice has been to attempt departmental assessment of each and every case. A limited scheme of summary assessment was introduced in 1979-80 but it was a non-starter and has largely remained on paper. In other words, even now virtually all dealers are being assessed by the department.

The existing practice is that, normally all dealers, irrespective of their turnover, are called to the Sales Tax Department through an issue of notice by the assessment authority (Form ST-31) for verification of correctness of the returns filed and completing assessments. When the dealer presents himself, the assessing authority is supposed to check the return against the entries in account books, ledgers, cash vouchers, etc., and see whether the account books maintained tally with the return furnished by the dealer (From ST-11). After checking the books, the assessing authority is supposed to make an assessment order and sign it and then send a copy of it to the dealer along with additional demand, if any, raised and the necessary challans for payment. Section 23 of the DST Act describes the procedure of assessment.

Although the department has been bravely attempting to thoroughly verify the self-assessment of the dealers and to

check the supporting books of accounts, etc., we find that the additional demand raised due to such global assessment has been a small fraction of the total demand raised; in other words, much greater part of the tax collected is accounted for by self-assessment. (However, this is not to say that assessment by the department has not been acting as a deterrent to evasion.) On the other hand, the job has proved to be beyond the capacity of the existing staff and the backlog of assessment cases has been increasing over time: it increased from 2,14,781 in 1976-77 to 3,95,190 in 1982-83 because of the disposal of assessments every year is lower than the institution of assessment cases (Table 8.1). Second, the existing practice has caused considerable hardship to the smaller dealers and opened up the

TABLE 8.1

Trends in Assessments During 1976-77 to 1982-83

Year	*Opening balance*	*Institution*	*Disposal*	*Pendency at the end of the year*
1976-77	178568	106008	69795	214781
1977-78	214781	110928	74131	251578
1978-79	251578	119683	76563	294698
1979-80	294698	115836	93436	3170 8
1980-81	317098	135854	103126	349826
1981-82	349826	130804	105337	384293
1982-83	384293	127760	116863	395190

Source: Office of the Commissioner of Sales Tax, Delhi.

way for harassment and corruption. Complaints by trade and industry against the department in relation to assessment have been many and have been strongly voiced. For one thing, the assessment for a given year is taken up long after that year. Under the existing provisions of the Act, the time limit for the completion of the assessment in case of registered dealers is four years and that in the case of unregistered dealers (*i.e.*, those who are not registered in the years concerned but were found liable for registration) is six years. In recent years, the department has been struggling to complete the assessment of cases which would get time-barred. This means that generally assessment is being done on returns submitted four years

earlier. Apart from this, not only are the dealers required to visit the office of the assessing authority several times but also have to often grease the palm of the lower levels of staff in order to get their cases expedited. At the end of it all, no large additional demand can be raised. When transactions which are being scrutinised took place, or were said to have taken place, four years earlier, it is difficult to marshall evidence to contest the statement of the assessee. More often the additional demand raised during assessment is knocked out on appeal by the assessee.

We feel that the existing procedures lead to unnecessary hardship and harassment to the dealers without any appreciable gain to revenue. The time has come for a basic change in the approach to assessment.

6. Self-Assessment

For simplifying assessment procedures, various trade associations and Chamber of Commerce and Industry have made several suggestions to us in their memoranda. One of the important suggestions made by them is the introduction of a scheme of summary assessment, which is covered by our terms of reference. The idea of introducing such a scheme is not new. After the submission of the *Report of the Sales Tax Committee*, 1978 (Chairman: Kanwarlal Gupta), the Department took up consideration of the scheme of summary assessment. Indeed, in 1979-80, the Department formally introduced a scheme of summary assessment, for expeditiously disposing of the assessment cases of the smaller dealers who fulfilled the following conditions:

(*a*) The sale of taxable goods during the year did not exceed Rs 1 lakh;
(*b*) All the returns have been filed within time;
(*c*) The accounts books were accepted in the preceding proceedings;
(*d*) There was nothing adverse on records; and
(*e*) The decline of sales, if any, did not exceed 10 per cent over the previous year.

(Department's Circular dated 16.11.1978)

The scheme was introduced under the authority given to the Commissioner under Sub-sections 2 and 3 of section 23 of the DST Act (For details of these sections, see Annexure VIII.1).

For all practical purposes, the scheme has merely remained on paper.

The departmental officials have attributed the failure of the scheme to certain legal complications that had arisen in relation to the production of statutory declarations in support of the claims for deductions and the lack of clarity on the issue of the dealer having to furnish account books etc. to the assessing authority at the time of assessment. Since the eligibility for self-assessment was hedged in by so many conditions, it was only to be expected that the scheme would not succeed. It appears to us that the Department was and has been inhibited by the fear of losing revenue. It is also possible that at least some of the officials were not prepared to see a diminution in their power over the assessees.

We discern two major defects in the scheme of self-assessment as formulated by the Department. First, it was hedged in by several conditions opening up ways for the assessing officer to nullify the scheme in respect of particular assessees. Second, the scheme did not contain a built-in safeguard against under-declaration of sales etc. by the assessees in order to become eligible for self-assessment. As we have indicated earlier, a scheme of self-assessment must always be accompanied by audit or scrutiny assessment in a sample of cases.

7. Recommendations

(*a*) *Self-assessment*

Both for minimising possible harassment to the smaller dealers and for enabling the department to concentrate on the big-revenue cases, it is absolutely necessary to introduce a scheme for self-assessment. Ideally, there should be self-assessment for all dealers other than the biggest 2000 or so dealers, coupled with scrutiny assessment on the basis of a sample drawn from the population of dealers other than the top ones. But this state of affairs cannot be reached in one single step. To begin with, we recommend that all dealers having a gross turnover not exceeding Rs 5 lakh be brought under the scheme

of self-assessment. In their cases, the returns submitted would be accepted as they are. After checking the calculations, and ensuring that the tax payable has been derived correctly, the assessing officer would send a letter informing the assessee that his return has been accepted. But it might come under the scheme of sample scrutiny within the specified period. The assessees falling under this scheme must be required to produce photocopies of the necessary vouchers and declaration forms, if they were claiming any deductions or concessions. In case the documentation is incomplete, the assessing officer should send a notice in writing requiring the assessee to produce the concerned document. Such a notice should be sent by registered post, and only if the assessee failed to respond to the notice within the time limit given, should he be called to the office.

If the cut-off point is fixed at Rs 5 lakh, as it is suggested above, more than two-third of the registered dealer would fall under this scheme. As a result, a good portion of the time of the officials of the department would become available for better scrutiny of the returns of the bigger dealers and for the other essential tasks of administering the sales tax.

The dealers coming under the scheme of self-assessment should not, however, be completely left out of the purview of audit or scrutiny assessment. A 10 per cent sample of such dealers should be subjected to thorough assessment, as the bigger dealers would be. The choice of the sample should not be left to the assessing officer; the sample should be chosen by the Commissioner himself with the help of EDP Cell.

In general, this scheme should be made applicable to all dealers whose gross turnover does not exceed Rs 5 lakh. But a dealer fulfilling this condition may be taken out of this scheme for a limited period, if there is clear evidence of fraud or malpractice against him. His exclusion from the scheme, however, must be ordered by an officer of a rank not less than an Assistant Commissioner. But same authority, on an application by the assessee concerned, could bring him back into the scheme, if he has been paying his taxes correctly and regularly during the specified period.

If the scheme of self-assessment suggested by us should prove to be a success—we have every hope that it would be so—it may be extended after a period of two years to dealers

whose turnover is Rs 10 lakh or below. With this extension the sample check should be raised from 10 to 25 per cent.

(b) Time Limit for Assessment

At present, the time limit for completing assessments is four years for registered dealers and six years for unregistered dealers. What with the shortage of staff and the desire to undertake scrutiny assessment in respect of all cases, the Department is invariably doing every year assessments that are about to be time-barred by the four-year or six-year rule. Needless to say, the assessees are put to great hardship as a result of the delay in the completion of assessments. Elsewhere in the report we have recommended an adequate increase in staff strength. Apart from that we have made two important recommendations that would serve to reduce unnecessary workload, namely, the raising of the exemption level to Rs 3 lakh and the introduction of the scheme of self-assessment. In addition, we have suggested the delinking of registration under CST and DST. With these reforms, it should be possible to cut down drastically the time required for completing assessments. It is recommended that the time limit for completion of assessments of registered and unregistered dealers be cut down to two years.

SECTION 23 OF DST ACT 1975

(1) The amount of tax due from a registered dealer shall be assessed separately for each year during which he is liable to pay the tax;

Provided that when such dealer fails to furnish a return relating to any period of a year by the prescribed date, the Commissioner may, if he thinks fit, assess the tax due from such dealer separately for that period or any other period of such year:

Provided further that the Commissioner may, subject to such conditions as may be prescribed and for reasons to be recorded in writing, assess the tax due from any dealer for a part of a year.

(2) If the Commissioner is satisfied that the returns furnished in respect of any period are correct and complete, he shall assess the amount of tax due from the dealer on the basis of such returns.

(3) (*a*) If the Commissioner is not satisfied that the returns furnished in respect of any period are correct and complete and he thinks it necessary to require the presence of the dealer or the production of further evidence, he shall serve on such dealer in the prescribed manner a notice requiring him on a date and at a place specified therein either to attend and produce or cause to be produced all evidence on which such dealer relies in support of his returns, or to produce such evidence as is specified in the notice.

(*b*) On the date specified in the notice, or as soon as may be thereafter, the Commissioner shall after considering all the evidence which may be produced, assess the amount of tax due from the dealer.

(4) If a dealer fails to comply with the terms of any notice issued under sub-section (3), the Commissioner shall assess to the best of his judgment the amount of tax due from him.

(5) If a dealer fails to furnish returns in respect of any period by the prescribed date, the Commissioner shall after giving the dealer a reasonable opportunity of being heard, assess to the best of his judgment the amount of tax, if any, due from him.

(6) If, upon information which has come into his possession, the Commissioner is satisfied that any dealer who has been liable to pay tax under this Act in respect of any period, has failed to get himself registered under section 14 or section 17, as the case may be, the Commissioner shall proceed in such manner as may be prescribed to assess to the best of his judgment the amount of tax due from the dealer in respect of such period and all subsequent periods and in making such assessment shall give the dealer a reasonable opportunity of being heard, and the Commissioner may, if he is satisfied that the default was made without reasonable cause, direct that the dealer shall pay by way of penalty, in addition to the amount of the tax so assessed, a sum not exceeding twice that amount.

(7) No assessment under the provisions of sub-sections (1) to (5) shall be made after the expiry of four years, and no assessment under the provisions of sub-section (6) shall be made after the expiry of six years from the end of the year in respect of which or part of which the tax is assessable:

Provided that where such assessment is made in consequence of or to give effect to, any order of an appellate or revisional authority or of a court, the period of four yea.s or six years, as the case may be, shall be reckoned from the data of such order and further that the provisions of sub-section (1) of section 24 regarding time limit for service of notice shall not apply for assessment made under this proviso.

(8) Any assessment made under this section shall be without prejudice to any prosecution for an offence under this Act.

SECTION 4 (2) (a) OF DST ACT 1975

(2) For the purpose of this Act, "taxable turnover" means that part of a dealer's turnover during the prescribed period in any year which remains after deducting therefrom—

(*a*) his turnover during that period—

(*i*) sales of goods, the point of sales at which such goods shall be taxable is specified by the Administrator under section 5 and in respect of which due tax is shown to the satisfaction of the Commissioner to have been paid;

(*ii*) sales of goods declared tax-free under section 7;

(*iii*) sales of goods not liable to tax under section 8;

(*iv*) sales of goods which are provided to the satisfaction of the Commissioner to have been purchased within a period of twelve months prior to the date of registration of the dealer and subjected to tax under the Bengal Finance (Sales Tax) Act, 1941 (Bengal Act 6 of 1941), as it was then in force, or under this Act;

(*v*) sales to a registered dealer—

(*A*) of goods of the class or classes specified in the certificate of registration of such dealer, as being intended for use by him as raw materials in the manufacture in Delhi of any goods, other than goods specified in the Third Schedule, or newspapers,—

(1) for sale by him inside Delhi; or

(2) for sale by him in the course of inter-State trade or commerce, being a sale occasioning or effected by transfer of documents of title to such goods during the movement of such goods from Delhi; or

(3) for sale by him in the course of export outside India being a sale occasioning the movement of such goods from Delhi, or a sale effected by transfer of documents of title to such goods effected during the movement of such goods from Delhi, to a place outside India and after the goods have crossed the customs frontiers of India; or

(*B*) of goods of the class or classes specified in the certificate of registration of such dealer as being intended for resale by him in Delhi, or for sale by him in the course of inter-State trade or commerce or in the course of export outside India in the manner specified in sub-item (2) or sub-item (3) of item (*a*), as the case may be; and

(*C*) of containers or other materials, used for the packing of goods, of the class or classes specified in the certificate of registration of such dealer, other than goods specified in the Third Schedule, intended for sale or resale;

(*D*) of containers or other materials, used for the packing of goods, of the class or classes specified in the certificate of registration of such dealer, other than goods specified in the Third Schedule, intended for sale or resale;

(*vi*) such other sales as are exempt from payment of tax under section 66 or as may be prescribed:

PROVIDED that no deduction in respect of any sales referred to in sub-clause (*iv*) shall be allowed unless the goods, in respect of which deduction is claimed are proved to have been sold by the dealer within a period of twelve months from the date of his registration and the claim for such deduction is included in the return required to be furnished by the dealer in respect of the said sale:

PROVIDED FURTHER that no deduction in respect of any sale referred to in sub-clause (*v*) shall be allowed unless a true declaration duly filled and

signed by the registered dealer to whom the goods are sold and containing the prescribed particulars in the prescribed form obtainable from the prescribed authority is furnished in the prescribed manner and within the prescribed time, by the dealer who sells the goods:

PROVIDED ALSO that where any goods are purchased by a registered dealer for any of the purpose mentioned in sub-clause (*v*), but are not so utilised by him, the price of the goods so purchased shall be allowed to be deducted from the turnover of the selling dealer but shall be included in the taxable turnover of the purchasing dealer; and

(*b*) the tax collected by the dealer under this Act as such and shown separately in cash memoranda or bills, as the case may be.

Form ST—11
(See rule 21)

RETURN OF TAX PAYABLE FOR THE QUARTER/
MONTH ENDING.................

Name of the dealer.................
Address of the dealer.................
Registration Certificate No...........Ward No..............

	Rs. Ps.
A. Total amount received or receivable for all sales made during the period	....
Less	
B. (*i*) Cost of freight, delivery or installation separately charged but included in 'A' above	....
(*ii*) Value of goods returned within the period prescribed under rule 5	....
(*iii*) Cash discount allowed according to ordinary trade practice and included in 'A' above	....
(*iv*) Tax collected as such and shown separately in cash memoranda or bills	....
	....
Total of B	....
C. Net turnover (A minus B)	
D. Deductions claimed	....
(*i*) Turnover on sale of goods specified under Section 5 in respect of which due tax paid at the point specified [Section 4(2) (*a*) (*ii*)]	....
(*ii*) Turnover on sale of goods declared tax-free [Section 4(2) (*a*)(*ii*)]	....
(*iii*) Turnover on sale of goods not liable to tax under Section 8 being:—	....
(*a*) in the course of inter-state trade or commerce	....
(*b*) out-side Delhi;	....
(*c*) in the course of import of goods into, or export of the goods out of the territory of India	....
	....
Total (*a*+*b*+*c*)	....
(*iv*) Turnover on sale of goods covered by Section 4(2) (*a*) (*iv*) and first proviso to Section 4(2) (*a*) (Give details in Annexure)	....
(*v*) Turnover on sale of goods to registered dealer [Secton 4(2) (*a*) (*v*)]	....
(*vi*) Turnover on sale of goods covered by section 4(2) (*a*)(*vi*)]	....

[(*vii*) Turnover on sale of first point goods to registered dealers as being intended for use by them as raw materials in the manufacture in Delhi of any goods (other than those specified in the Third Schedule appended to the Act) for sale by them in Delhi against declarations furnished in the manner provided] ....

....

Total deductions claimed

....

E. Taxable turnover (C minus D) Rs ....

[E—I Add

(*i*) purchase price of goods referred to in rule 23—A(1) ....

(*ii*) purchase price of goods referred to in rule 23—A(2) ....

Total of column E—I ....

E—II Taxable turnover (E plus E—I) ....

F. Calculation of tax payable

	Total sales		Tax payable	
	....		....	
	Rs.	P.	Rs.	P.
	....		....	
Sales taxable @ per cent				
Sales taxable @ per cent				
Sales taxable @ per cent				
Sales taxable @ per cent				
Sales taxable @ per cent				
	....		....	
Total				
	....		....	

G. Amount, if any, credited by Refund adjustment order (mention serial No. of order enclosed)

....

Total paid

....

I. Particulars of payments made in the Bank:—

Treasury receipt No.	Name of Bank at which paid	Date of payment	Amount paid
1	2	3	4
(*i*)			
(*ii*)			
(*iii*)			
(*iv*)			
Total			

J. Account of ST—1 forms utilised during the quarter, in the following form:—

S. No.	Serial No.(s) of the Form S.T.—1 utilised during the quarter	Name and addresses of the dealer to whom issued	Total amount of purchases for each S.T.—1 form issued
1	2	3	4

K. List of Enclosure(s):—

(*i*)

(*ii*)

(*iii*)

VERIFICATION

I hereby state and declare on solemn affirmation that the above statements (and the particulars furnished in the annexure) are true and correct to the best of my knowledge and belief.

Signature..................

Place.............. Name of person.........

Date.............. Status....................

Form ST—31
(See rule 45)

NOTICE UNDER SECTION 55 OF THE DELHI SALES TAX ACT, 1975

Office of the Sales tax Officer
Ward No..........................
New Delhi
Dated:

No.
To:
M/s..................(name)
...........................(Address)
...........................(Registration No.)

*Whereas you, being a registered dealer have failed to furnish return(s) for the month(s)/quarter(s) ending...........197.........by the prescribed date(s) as required under sub-section (2) of section 21 of the Delhi Sales Tax Act, 1975;

*Whereas you, being a registered dealer, have failed to pay the tax due according to the return(s) for the month(s)/quarter(s) ending...........197...........as required under sub-section (3) of section 21 of the Delhi Sales Tax Act, 1975;

And whereas I propose to impose a penalty under sub-section (1) of section 55 of the said Act, for the aforesaid default(s),

Now, therefore, I requirc you to show-cause in person or by an agent at.......................on..................at.....................as to why the proposed action may not be taken.
(Place) (Date) (Time)

Please take notice that in the event of your failure without sufficient cause to comply with this notice, the proposed action shall be taken under section 55 of the said Act without further notice to you.

SEAL

Signature....................
Designation................

*Strike out whichever is not required.